

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

In Re: Camp Lejeune, North Carolina Water Contamination Litigation.

ERICA Y. BRYANT, ROBERT BURNS, DANIEL J. GROSS, II, ROBERT PARK,
SHARON KAY BOLING, LINDA JONES, and ESTELLE RIVERA,

Petitioners (Applicants),

- and -

ANDREW STRAW and JAMES NATHANIEL DOUSE,

Plaintiffs,

- and -

LEANDRO PEREZ, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, United States
of America, ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION
AGENCY, DIVISION DIRECTOR, DEPARTMENT OF ENVIRONMENTAL
PROTECTION AGENCY, SECRETARY OF THE NAVY,

Respondents.

**APPLICATION FOR EXTENSION OF TIME TO
FILE A PETITION FOR WRIT OF CERTIORARI**

Jay L. T. Breakstone
Counsel of Record
Parker Waichman LLP
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
jbreakstone@yourlawyer.com
Counsel for Linda Jones

Robert B. Jackson, IV
Robert B. Jackson, IV, LLC
260 Peachtree Street – Suite 220
Atlanta, GA 30303
(404) 313-2039
rbj4law@gmail.com

Donald D. J. Stack
Stack & Associates, PC
260 Peachtree Street – Suite 1200
Atlanta, GA 30303
(404) 525-9205
dstack@stackenv.com
Counsel for Erica Y. Bryant

Alton C. Todd
The Law Firm of Alton C. Todd
312 S. Friendswood Dr.
Friendswood, TX 77546
(281) 992-8633
alton@actlaw.com
*Counsel for Robert Burns and
Daniel J. Gross, II*

Douglas Peter Desjardins
Transportation Injury Law Group
1717 N Street, NW
Suite 300
Washington, DC 20036
(202) 638-5300
dpd@pangialaw.com
*Counsel for Sharon Kay Boling and
Robert Park*

James Edward Bell, III
Deloris King Cromartie
Bell Legal Group, LLC
219 Ridge Street
Georgetown, SC 29940
(843) 546-2408
jeb@edbelllaw.com
lori@edbelllaw.com
Counsel for Estelle Rivera

**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE ELEVENTH CIRCUIT**

Pursuant to Rule 13.5, 22, and 30 of the Rules of the Court, petitioners request a 60-day extension of time, up to and including February 3, 2020, to file a petition for writ of certiorari to the United States Court of Appeals for the Eleventh Circuit to review that court's decision in *In Re: Camp Lejeune, North Carolina Water Contamination Litigation (Perez, et al.)*, attached as Exhibit A. This application is filed by certain plaintiffs who will join together, through multiple counsel, to file a single petition seeking such review. The jurisdiction of the Court will be invoked under 28 U.S.C. § 1254(1). The 11th Circuit denied petitioners' petitions for rehearing and rehearing *en banc* on September 5, 2019, attached as Exhibit B.¹ Without this extension, the time to file a petition for certiorari will expire on December 4, 2019. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

1. This case presents critical questions for not only these representative plaintiffs, but for countless other victims who were severely injured when the Government provided them with contaminated water while they lived and worked at Marine Corps Base Camp Lejeune in North Carolina in the 1970's and 1980's. Those questions include whether or not liability for such acts should be barred by the

¹ A copy of the opinion of the district court is reported at 263 F.Supp.3d 1318 (N.D. Georgia 2016), reh'g den, 2017 WL 55053212 (2017), and is attached as Exhibit C.

discretionary function exception to the Federal Tort Claims Act, 28 U.S.C. § 2860(a), and whether North Carolina's ten-year statute of repose should bar such claims.

2. In addition, this case also presents the question as to whether or not the doctrine enunciated in *Feres v. United States*, 340 U.S. 135 (1950), should be extended to those whose injuries were not incidental to their military service.

3. Finally, the petition will examine whether the 11th Circuit, hearing this matter as an MDL transferee court, was justified in failing to apply North Carolina's statute of repose as clarified by the legislature of that state; a clarification which specifically explained that the state's statute of repose would not bar petitioners' claims if the claims were made in the state of North Carolina, a view adopted by the 4th Circuit, which covers North Carolina where Camp Lejeune is located. *Stahle v. CTS Corp.*, 817 F.3d 96 (4th Cir. 2016).

4. These questions are central to the resolution of claims for injuries to service men and women and their families. Because of multiple claimants and multiple counsel, it is necessary to not only coordinate work and resources, but to ensure that such efforts result in a joint brief which fairly and adequately presents a single voice on the multiple issues involved. As a practical matter, this presents scheduling, coordination, and staffing concerns which have made it highly difficult to prepare and file an appropriate petition under the present timeline.

5. Petitioners respectfully request that an order be entered extending the time in which to file a petition for certiorari for 60 days, up to and including February 3, 2020.

Dated: November 22, 2019

Respectfully submitted,

Jay L. T. Breakstone
Counsel of Record
Parker Waichman LLP
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
jbreakstone@yourlawyer.com
Counsel for Linda Jones

Robert B. Jackson, IV
Robert B. Jackson, IV, LLC
260 Peachtree Street – Suite 220
Atlanta, GA 30303
(404) 313-2039
rbj4law@gmail.com

Donald D. J. Stack
Stack & Associates, PC
260 Peachtree Street – Suite 1200
Atlanta, GA 30303
(404) 525-9205
dstack@stackenv.com
Counsel for Erica Y. Bryant

Alton C. Todd
The Law Firm of Alton C. Todd
312 S. Friendswood Dr.
Friendswood, TX 77546
(281) 992-8633
alton@actlaw.com
*Counsel for Robert Burns and
Daniel J. Gross, II*

Douglas Peter Desjardins
Transportation Injury Law Group
1717 N Street, NW
Suite 300
Washington, DC 20036
(202) 638-5300
dpd@pangialaw.com
*Counsel for Sharon Kay Boling and
Robert Park*

James Edward Bell, III
Deloris King Cromartie
Bell Legal Group, LLC
219 Ridge Street
Georgetown, SC 29940
(843) 546-2408
jeb@edbelllaw.com
lori@edbelllaw.com
Counsel for Estelle Rivera